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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,754	10/11/2006	Alec Matschenko	P70510US0	1575

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JACOBSON HOLMAN PLLC  
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WASHINGTON, DC 20004

EXAMINER
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WALLENHORST, MAUREEN

ART UNIT	PAPER NUMBER
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1743

MAIL DATE	DELIVERY MODE
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09/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/529,754

Applicant(s)

MATSCHENKO ET AL.

Examiner

Maureen M. Wallenhorst

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 8/29/07.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_.

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1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because of the inclusion of legal phraseology such as "said". Correction is required. See MPEP § 608.01(b).
4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite since it first recites that the steps of the method are to successively introduce into a sample a molybdate solution, then a developer and then a "reagent". However, on the last two lines of the claim, it recites that the developer is first introduced into the sample, followed by the molybdate solution and then a reducing agent. Therefore, it is unclear in what order the specific reagents are added to the sample. For examination purposes, claim 1 has been interpreted as a method for calibrating the zero point of an apparatus that determines the amount of silica in a sample solution by first introducing a developer into the sample, then introducing a molybdate solution, and finally introducing a reducing agent into the solution. Claim 1 is also indefinite since the terminology used for the "developer" and the "reagent" is vague and does not

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clearly define the scope of the protection sought. The term "developer" does not have a specific chemical meaning. In addition, on lines 3-4 of claim 1, the phrase "a reagent" is indefinite and vague since this could be any type of chemical known in the world, and is not specific to the determination of silica. On line 5 of claim 1, the phrase "said reducing agent" lacks antecedent basis.

Claim 1 is generally narrative and indefinite, failing to conform with current U.S. practice. It appears to be a literal translation into English from a foreign document and is replete with grammatical and idiomatic errors.

5. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action since none of the prior art of record teaches or fairly suggests a method for calibrating the zero point of an apparatus that determines the amount of silica contained in a silica solution sample by modifying the known order of adding reagents to a silica sample solution by adding a developer such as oxalic acid to the sample first, then adding a molybdate solution, and finally adding a reducing agent to the sample. The prior art all teaches of analyzing the amount of silica in a sample by first adding a molybdate solution to the sample to form a silicomolybdic complex, then adding a developer such as oxalic acid to the sample, and finally adding a reducing agent to the sample to form a blue product that can be analyzed colorimetrically by measuring the light absorption of the sample. None of the prior art searched and made of record teaches or fairly suggests that this known order of adding reagents to a silica-containing sample can be modified in order to zero calibrate the instrument used to measure the light absorption of the colored product.

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Please make note of: Hach who teaches of an automatic analyzer that determines silica in water; Kaneko et al who teach of determining silica in water using molybdenum/oxalic acid reagents; Salpeter (US 5,550,053 and 5,230,863) who teaches of methods for calibrating automatic chemical analyzers for silica detection using molybdate reagents; and Schneider, Jr. et al who teach of a colorimetric analyzer for analyzing silica in water.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen M. Wallenhorst whose telephone number is 571-272-1266. The examiner can normally be reached on Monday-Thursday from 6:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden, can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maureen M. Wallenhorst  
Primary Examiner  
Art Unit 1743

mmw

September 8, 2007

*Maureen M. Wallenhorst*  
MAUREEN M. WALLENHORST  
PRIMARY EXAMINER  
GROUP ~~1200~~ 1700